

Claimant suffered injury on April 17, 2003, when, while standing on a barrel working on an overhead rail, claimant fell onto a concrete floor. Claimant has no memory of the

fall, remembering only that he was working on the rail and the next thing he knew he was in an ambulance, being taken to the hospital. A witness at the scene--i.e., respondent's nurse on the evening shift--was called to the scene of the fall and testified that claimant was, from all appearances, suffering from the effects of a seizure. Claimant was transported to the Southwest Medical Center in Liberal, Kansas, where he was examined and treated by I. F. Yeats, M.D. Claimant was diagnosed with multiple contusions secondary to seizure activity.

The issue to be determined is whether claimant's fall and resulting injuries are compensable under the Workers Compensation Act. The law in Kansas is clear with regard to non-work-related falls.

Where an employment injury is clearly attributable to a personal (idiopathic) condition of the employee, and no other factors intervene or operate to cause or contribute to the injury, no award is granted.<sup>1</sup>

But where an injury results from the occurrence of some preexisting idiopathic condition *and* some hazard of employment, compensation is generally allowed.<sup>2</sup>

Respondent argues claimant's fall was no different than any fall he would have suffered at home. However, as described by claimant, he was standing several feet off the ground on a barrel, working on an overhead rail. Regardless of respondent's assertions, a fall from a height of even three or four feet onto a concrete floor would significantly increase the force generated by the fall. In this instance, the Board finds that claimant's standing on a barrel, several feet above a concrete floor, would constitute a hazard of his employment.

It is the intent of the legislature that the workers compensation act shall be liberally construed for the purpose of bringing employers and employees within the provisions of the act to provide the protections of the workers compensation act to both.<sup>3</sup>

In this instance, the Board finds that claimant did suffer accidental injury arising out of and in the course of his employment with respondent, as the seizure, if that is indeed what claimant suffered, when coupled with the hazard of claimant's standing several feet above a concrete floor, would constitute a compensable incident.

---

<sup>1</sup> *Anderson v. Scarlett Auto Interiors*, 31 Kan. App. 2d 5, 61 P.3d 81 (2002).

<sup>2</sup> *Bennett v. Wichita Fence Co.*, 16 Kan. App.2d 458, 460, 824 P.2d 1001 (1992).

<sup>3</sup> K.S.A. 44-501(g).

At preliminary hearing, respondent alluded to a possible witness who could verify or dispute whether claimant was actually standing on a barrel when he fell. There was some indication that claimant's fall may have occurred while he was simply walking. However, this information was not placed into record, but merely suggested during claimant's questioning. The Board, therefore, finds that the Order of the Administrative Law Judge granting claimant medical benefits for the injuries occurring on April 17, 2003, should be affirmed.

As is always the case, preliminary findings are not binding in a full hearing on the claim, but are instead subject to a full presentation of the facts.<sup>4</sup>

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge Pamela J. Fuller dated June 30, 2003, should be, and is hereby, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of August 2003.

---

BOARD MEMBER

c: Lawrence M. Gurney, Attorney for Claimant  
Kerry E. McQueen, Attorney for Respondent/Insurance Carrier  
Pamela J. Fuller, Administrative Law Judge  
Paula S. Greathouse, Director

---

<sup>4</sup> K.S.A. 44-534a.